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UNCLAS SECTION 01 OF 03 ROME 001380

SIPDIS

FROM FODAG

MEXICO CITY FOR BRAKEL
STATE FOR IO/EDA KOTOK
USAID FOR RALPH CUMMINGS

E.O. 12958: N/A

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SUBJECT: FAO RIGHT TO FOOD WORKING GROUP: REPORT OF FIRST SESSION

1. SUMMARY: THE FIRST SESSION OF THE INTERGOVERNMENTAL UNCLASSIFIED

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WORKING GROUP FOR THE ELABORATION OF VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY MET MARCH 24-26, 2003. THE U.S. WAS ELECTED TO THE BUREAU AS VICE-CHAIR. AS EXPECTED, MANY G-77 MEMBERS, SOME OECD MEMBERS (NORWAY AND SWITZERLAND) AND MOST NGO'S PRESENT SOUGHT TO MOVE THE DEBATE AWAY FROM "VOLUNTARY," "NATIONAL" GUIDELINES TO AN "INTERNATIONAL" AND "LEGALLY BINDING" INSTRUMENT. WHILE THE U.S. IS ALONE IN PUBLICLY REJECTING A "RIGHT TO FOOD," WE FEEL THAT WE ARE SUPPORTED BY MOST OTHER OECD COUNTRIES IN SEEKING AN OUTCOME FOCUSED ON PRACTICAL STEPS AT THE NATIONAL LEVEL RATHER THAN ON A THEORETICAL "RIGHT TO FOOD." THE BUREAU WILL MEET INTER-SESSIONALLY TO PREPARE A FIRST DRAFT OF THE GUIDELINES FOR SUBMISSION TO THE NEXT SESSION IN SEPTEMBER 2003. END SUMMARY.

2. THE FAO CONVENED THE FIRST MEETING OF THE INTERGOVERNMENTAL WORKING GROUP FOR THE ELABORATION OF VOLUNTARY GUIDELINES TO SUPPORT THE PROGRESSIVE REALIZATION OF THE RIGHT TO ADEQUATE FOOD IN THE CONTEXT OF NATIONAL FOOD SECURITY (IGWG-RTF) MARCH 24-26, 2003. THE IGWG WAS ESTABLISHED PURSUANT TO PARAGRAPH 10 OF THE DECLARATION OF THE WORLD FOOD SUMMIT: FIVE YEARS LATER AND ACCORDING TO THE TERMS OF REFERENCE (TOR) AGREED BY THE 123RD FAO COUNCIL.

BUREAU AND PARTICIPANTS

3. PARTICIPANTS IN THE IGWG INCLUDED 83 FAO AND UN MEMBERS, 17 INTERNATIONAL NGOS, AS WELL AS UN AND OTHER UNCLASSIFIED

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SPECIALIZED AGENCIES, THE WORLD FOOD PROGRAM, THE OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS, AND THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD. THE GROUP ELECTED AMBASSADOR NOURI-NAENI (IRAN) AS CHAIR, AMBASSADOR CHRISTIAN MONNOYER (BELGIUM) AS FIRST VICE-CHAIR AND AMBASSADOR GURGEL DE ALENCAR (BRAZIL), MR. HAMADOUN CISSE (MALI), MR. PETER BENNET (NEW ZEALAND), MR. NOEL D. DE LUNA (PHILIPPINES) AND MS. LUCY TAMLYN (U.S.) AS VICE-CHAIRS. COMMENT: AMBASSADOR MONNOYER, THE OECD CANDIDATE FOR CHAIR, WITHDREW HIS CANDIDACY AT THE LAST MINUTE IN THE FACE OF STRONG G-77 INTEREST IN THE CHAIR. IN EXCHANGE, IT WAS AGREED THAT MONNOYER WOULD SERVE AS THE FIRST VICE-CHAIR. END COMMENT.

QUESTION OF RAPPORTEUR

4. AS PART OF THE ARRANGEMENT WHEREBY THE G-77 ASSUMED THE CHAIR, THE G-77 OFFERED (AND SOME OECD MEMBERS HAD SUPPORTED) CREATING A RAPPORTEUR IN ORDER TO BRING ANOTHER OECD MEMBER ONTO THE BUREAU. THE FIRST ORDER OF BUSINESS ASSIGNED TO THE BUREAU WAS DETERMINING WHETHER A RAPPORTEUR WAS NEEDED. (THE ONLY CANDIDATE FOR RAPPORTEUR WAS NORWAY.) USDEL OBJECTED TO CREATING A RAPPORTEUR, ARGUING THAT THE POSITION WAS NOT IN THE TOR AND TOOK AWAY FROM THE BUREAU'S ASSIGNED RESPONSIBILITIES. THE BUREAU AGREED THAT IT WOULD NOT CREATE A RAPPORTEUR DURING THIS SESSION, BUT RECOGNIZED THAT SOME COUNTRIES MIGHT WISH TO RAISE THE ISSUE AGAIN AT A LATER DATE.

U.S. STATEMENT

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5. AMBASSADOR TONY P. HALL DELIVERED THE U.S. OPENING STATEMENT. HE EMPHASIZED THAT THE IGWG SHOULD FOCUS ON PRACTICAL STEPS THAT COULD BE TAKEN BY GOVERNMENTS AND OTHER ACTORS TO ACHIEVE NATIONAL FOOD SECURITY. THESE INCLUDE: INCREASING AGRICULTURAL PRODUCTIVITY; CREATING

AN ENABLING ENVIRONMENT; PROMOTING TRANSPARENT AND ACCOUNTABLE GOVERNMENT; BOOSTING AGRICULTURAL SCIENCE AND TECHNOLOGY; DEVELOPING DOMESTIC MARKET AND INTERNATIONAL TRADE OPPORTUNITIES; SECURING PROPERTY RIGHTS AND ACCESS TO FINANCE; ENHANCING HUMAN CAPITAL; PROTECTING THE VULNERABLE; ADVANCING THE STATUS OF WOMEN; AND MAINSTREAMING A GENDER PERSPECTIVE IN NATIONAL INSTITUTIONS, POLICIES, AND BUDGETS AROUND THE WORLD.

16. THE U.S. STATEMENT NOTED THAT THE UNITED STATES BELIEVED THAT THE ATTAINMENT OF THE RIGHT TO AN ADEQUATE STANDARD OF LIVING WAS A GOAL OR ASPIRATION TO BE REALIZED PROGRESSIVELY THAT DID NOT GIVE RISE TO INTERNATIONAL OBLIGATIONS OR DOMESTIC LEGAL ENTITLEMENT; NOR DID IT DIMINISH THE RESPONSIBILITIES OF NATIONAL GOVERNMENTS TOWARD THEIR CITIZENS. THE UNITED STATES

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ACTION IO-00

INFO	LOG-00	AID-00	AMAD-00	CIAE-00	COME-00	INL-00	WHA-00
	SRPP-00	EB-00	EUR-00	UTED-00	FDRE-01	TEDE-00	INR-00
	NSAE-00	OES-00	OIC-02	SS-00	TEST-00	TRSE-00	R-00
	ECA-00	SAS-00	/003W				

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FM AMEMBASSY ROME
TO SECSTATE WASHDC 9053
USDA FAS WASHDC 2604
INFO USMISSION GENEVA
USMISSION USUN NEW YORK
AMEMBASSY MEXICO

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REPEATEDLY EMPHASIZED THAT FOCUSING ON A THEORETICAL
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"RIGHT TO FOOD" WOULD DISTRACT FROM ACHIEVING NATIONAL
FOOD SECURITY.

RIGHT TO FOOD OR RIGHT TO ACCESS TO FOOD?

17. ALMOST EVERY STATEMENT BY GOVERNMENTS, NGOS, AND UN REPRESENTATIVES (EXCEPT FOR WFP) SUPPORTED THE "RIGHT TO FOOD." HOWEVER, ON EXAMINATION, MOST STATEMENTS REALLY DEALT WITH THE "RIGHT TO ACCESS TO FOOD" RATHER THAN THE "RIGHT TO FOOD" PER SE. THE EU STATEMENT INCLUDED PRACTICAL MEASURES THAT SHOULD BE TAKEN TO ACHIEVE FOOD SECURITY SUCH AS THE NEED FOR GOOD GOVERNANCE; ADDRESSING FOOD SECURITY AS PART OF OVERALL NATIONAL POVERTY REDUCTION STRATEGIES; EMPHASIZING GOVERNMENTS' OBLIGATION TO RESPECT AND PROTECT PEOPLE'S ABILITY TO FEED THEMSELVES; ACCESS TO PRODUCTIVE RESOURCES; THE ROLE OF CIVIL SOCIETY IN DEVELOPING FOOD SECURITY STRATEGIES; THE NEED FOR COOPERATION AMONG THE NATIONAL GOVERNMENT, LOCAL GOVERNMENTS, NGOS, AND THE PRIVATE SECTOR.

JUSTICIABILITY AND INTERNATIONAL DIMENSIONS

18. SOME GOVERNMENTS AND NGOS SUPPORTED AN INDIVIDUAL "RIGHT" IN THE FULL SENSE OF THE WORD (I.E. INDIVIDUALS COULD TAKE LEGAL MEASURES AGAINST THEIR GOVERNMENTS IF THEY DO NOT PROVIDE ADEQUATE FOOD) AND "INTERNATIONAL OBLIGATIONS" (I.E. INDIVIDUALS OR STATES COULD TAKE LEGAL MEASURES AGAINST DEVELOPED COUNTRIES WHEN THEIR NATIONAL GOVERNMENTS FAIL TO PROVIDE ADEQUATE FOOD). SPEAKING IN SUPPORT OF NATIONAL AND INTERNATIONAL JUSTICIABILITY WERE THE UN SPECIAL RAPPORTEUR ON THE RIGHT TO FOOD, THE

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OFFICE OF THE UN HIGH COMMISSIONER FOR HUMAN RIGHTS AND SWITZERLAND AND NORWAY (WHO MADE JOINT STATEMENTS). OTHER COUNTRIES AND REGIONS WHICH SPOKE IN SUPPORT OF JUSTICIABILITY WERE ZIMBABWE (SPEAKING FOR THE AFRICAN REGION), UGANDA AND SOUTH AFRICA (RTF IS INCLUDED IN THEIR CONSTITUTIONS), MALI, BANGLADESH AND DOMINICAN

REPUBLIC (WHO PROPOSED THAT THE VOLUNTARY GUIDELINES LEAD TO A BINDING CODE OF CONDUCT). WHEN THE DOMINICAN REPUBLIC DELEGATE SPOKE ON BEHALF OF GRULAC, HE WAS MORE MODERATE AND SAID THAT GOVERNMENTS NEEDED GUIDANCE FROM THEIR CAPITALS.

19. THE G-77 ALSO STRONGLY SUPPORTED THE NEED TO INCLUDE AN INTERNATIONAL DIMENSION AND INCLUDE INTERNATIONAL RESPONSIBILITIES.

110. CANADA AND RUSSIA STATED THAT THE VOLUNTARY GUIDELINES SHOULD NOT ADDRESS INTERNATIONAL OBLIGATIONS OR JUSTICIABILITY. THE EU WRITTEN SUBMISSION STATED THAT THE GUIDELINES SHOULD NOT ADDRESS INTERNATIONAL OBLIGATIONS AND WAS SILENT ON THE ISSUE OF JUSTICIABILITY. BRAZIL STATED THAT THE IGWG NEEDED TO RECOGNIZE THAT COUNTRIES HAD DIFFERENT LAWS AND DIFFERENT RESOURCE BASES AND ARGUED THAT THE IGWG COULD NOT IMPOSE ANY OBLIGATIONS ON COUNTRIES BUT MUST RESPECT NATIONAL SOVEREIGNTY.

111. COMMENT: IT WAS CLEAR FROM INFORMAL DISCUSSIONS WITH DELEGATES THAT THE NOTION OF "JUSTICIABILITY" WAS POORLY UNDERSTOOD. FOR MOST DEVELOPING COUNTRIES, JUSTICIABILITY IMPLIED INTERNATIONAL OBLIGATIONS AND NOT UNCLASSIFIED

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NATIONAL OBLIGATIONS. COUNTRIES PARTY TO THE COVENANT ON ECONOMIC, SOCIAL AND CULTURAL (ESC) RIGHTS WERE NOT CLEAR WHAT THE RELATIONSHIP OF THE VOLUNTARY GUIDELINES WOULD BE TO THEIR LEGALLY BINDING OBLIGATIONS UNDER THE COVENANT. WHILE COMMENT 12 OF THE COMMITTEE ON ESC RIGHTS WAS WIDELY SUPPORTED AS A BASIS FOR THE VOLUNTARY GUIDELINES, THE FACT THAT COMMENT 12 INCLUDES JUSTICIABILITY WAS ALSO NOT RECOGNIZED. MANY NGO'S ARGUED FOR A LEGALLY BINDING RIGHT TO REINFORCE A GENERAL HUMAN RIGHTS BASED APPROACH TO DEVELOPMENT, WHICH EMPHASIZES THAT INDIVIDUALS HAVE RIGHTS AND GOVERNMENTS HAVE OBLIGATIONS TO THEIR CITIZENS. END COMMENT.

112. OTHER ISSUES THAT RECEIVED ATTENTION WERE: WHETHER THE RTF INCLUDES THE RIGHT TO SAFE DRINKING WATER AND WHETHER THE RTF TAKES PRIORITY OVER OTHER INTERNATIONAL OBLIGATIONS.

113. AT THE REQUEST OF MEMBERS THE SECRETARIAT PREPARED A DRAFT WORKING DOCUMENT HIGHLIGHTING THE MAIN AREAS OF CONVERGENCE AND DIVERGENCE. THE GROUP DISCUSSED THE DRAFT WORKING DOCUMENT AND PRESENTED COMMENTS AND

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ACTION IO-00

INFO	LOG-00	AID-00	AMAD-00	CIAE-00	COME-00	INL-00	WHA-00
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	NSAE-00	OES-00	OIC-02	PER-00	IRM-00	SS-00	TEST-00
	TRSE-00	ECA-00	SAS-00	/003W			

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FM AMEMBASSY ROME
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INFO USMISSION GENEVA
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AMEMBASSY MEXICO

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CORRECTIONS TO THE SECRETARIAT EFFORT. THE U.S.
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CRITICIZED THE DRAFT WORKING DOCUMENT AND REQUESTED THAT COMMENTS BE TAKEN INTO CONSIDERATION IN THE NEXT DRAFT. U.S. CORRECTIONS INCLUDED THE FOLLOWING:

-- THE DRAFT WORKING DOCUMENT REFERRED TO "EXISTING LEGAL OBLIGATIONS REGARDING THE RIGHT TO ADEQUATE FOOD." THERE

ARE NO SUCH EXISTING LEGAL OBLIGATIONS.

-- THE U.S. COULD NOT SUPPORT USING GENERAL COMMENT 12 OF THE COMMITTEE ON ECONOMIC, SOCIAL AND CULTURAL RIGHTS AS AN AUTHORITATIVE INTERPRETATION OF THE RIGHT TO ADEQUATE FOOD.

THE DRAFT WORKING DOCUMENT DID NOTE THAT THERE WAS NO CONVERGENCE ON THE QUESTION OF JUSTICIABILITY AND THE INTERNATIONAL DIMENSION.

14. THE IGWG APPROVED A SHORT REPORT OF THE MEETING WHICH THE BUREAU (ACTING AS AN AD-HOC DRAFTING COMMITTEE) HAD WORKED ON AND AGREED TO BEFORE PRESENTATION TO THE PLENARY.

FUTURE ORGANIZATION OF WORK

15. THE IGWG AGREED THAT MEMBERS AND STAKEHOLDERS COULD CONTINUE TO SEND SUBMISSIONS UNTIL APRIL 7, AFTER WHICH THE SECRETARIAT WOULD FINALIZE A SYNTHESIS REPORT OF SUBMISSIONS. THE FINALIZED SYNTHESIS REPORT WILL BE APPROVED BY THE BUREAU AND SENT TO THE FAO COMMITTEE ON FOOD SECURITY IN MAY 2003 ALONG WITH THE IGWG REPORT.

16. THE BUREAU WILL PREPARE A FIRST DRAFT OF THE
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VOLUNTARY GUIDELINES (USING THE REVISED "WORKING DOCUMENT" FOR INSPIRATION) IN DUE TIME FOR SUBMISSION TO THE SECOND SESSION OF THE IGWG (TENTATIVELY SCHEDULED FOR THE LAST WEEK OF SEPTEMBER 2003). THE THIRD SESSION WILL LIKELY OCCUR IN MARCH 2004. IT IS ANTICIPATED THAT THE IGWG WILL COMPLETE ITS WORK BY SEPTEMBER 2004.

17. IT WAS DECIDED THAT THE BUREAU WOULD REVIEW PROPOSALS FOR INTERSESSIONAL ACTIVITIES, SUBJECT TO THE AVAILABILITY OF RESOURCES, AS WELL AS WORK CLOSELY WITH THE SECRETARIAT ON ITS PROPOSED PROGRAM OF WORK. THE U.S. INTERVENTION SUGGESTED LOOKING AT BEST PRACTICES AND PRACTICAL STEPS TO PROMOTE FOOD SECURITY IN SPECIFIC COUNTRIES AND IN GENERAL DEEPEN UNDERSTANDING OF IDEAS WHERE THERE WAS BROAD CONVERGENCE. OTHER MEMBERS SAW THE INTERSESSIONAL ACTIVITIES AS AN OPPORTUNITY TO DELVE INTO ISSUES OF DIVERGENCE SUCH AS JUSTICIABILITY AND THE INTERNATIONAL DIMENSION. USDEL ARGUED THAT ROME DELEGATES WERE NOT HUMAN RIGHTS EXPERTS, AND WERE NOT EXPECTED TO ACT AS SUCH: THE RESPONSIBILITY HAD BEEN GIVEN TO ROME BECAUSE OF EXPERTISE IN FOOD AND AGRICULTURE AND WE SHOULD FOCUS ON OUR AREA OF COMPETENCE.

COMMENT

18. WHILE THE U.S. IS ALONE IN NOT SUPPORTING A "RIGHT TO FOOD" WE FEEL THAT WE ARE SUPPORTED BY MANY OECD COUNTRIES IN SEEKING A PRACTICAL AND USEFUL OUTCOME WHICH IS FOCUSED ON NATIONAL FOOD SECURITY RATHER THAN ON JUSTICIABLE, INTERNATIONALLY BINDING OBLIGATIONS. THE U.S. IS ALSO WELL POSITIONED IN THAT THE TOR PROVIDE THE
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BUREAU WITH BROAD DRAFTING POWERS AND OVERSIGHT OVER SECRETARIAT ACTIVITIES INTERSESSIONALLY. THE CHALLENGE

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WILL BE TO KEEP OTHER ROME DELEGATES FOCUSED ON "NATIONAL FOOD SECURITY" AND ACHIEVE AN OUTCOME THAT IS (AT LEAST) AS GOOD AS THE WORLD FOOD SUMMIT PLAN OF ACTION. HALL

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